

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket Nos. 2020-103-10020R; 2020-103-10022R; 2020-103-10023R;  
and 2020-103-10024R

Parcel Nos. P1109A02; P1109A03; P1109A04; and P1109A01

**Riverside Real Estate Holdings, LLC,**

Appellant,

vs.

**City of Davenport Board of Review,**

Appellee.

---

**Introduction**

These appeals came on for hearing before the Property Assessment Appeal Board (PAAB) on June 18, 2021. Owner Derrick Nix represented Riverside Real Estate Holdings, LLC. Attorney Theodore Craig represented the City of Davenport Board of Review.

Riverside Real Estate Holdings, LLC (Riverside) owns four residential sites in Davenport, Iowa. The following table summarizes each site appealed. (Exs. A).<sup>1</sup>

Docket	Address	2020 Assessed Value
2020-103-10020R	1221 W 53rd St	\$16,270
2020-103-10022R	1217 W 53rd St	\$16,260
2020-103-10023R	1215 W 53rd St	\$22,560
2020-103-10024R	1223 W 53rd St	\$22,260

None of the sites had dwelling improvements for the 2020 assessment.

---

<sup>1</sup> Each docket contains Exhibits A-M and are specific to each individual site. When referenced collectively to the sites, only one Exhibit will be cited. If an individual site is referenced the corresponding docket number will also be cited. Exhibits 1-13 are identical for all of the dockets.

Riverside petitioned the Board of Review contending the assessments were not equitable as compared with assessments of other like property and that they were assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1)(a, b) (2020). (Exs. C). The Board of Review denied the petition. (Exs. B).

Riverside then appealed to PAAB re-asserting its claims the assessment was not equitable and that it was assessed for more than the value authorized by law. Riverside also claims there was an error in the assessment as well as fraud or misconduct in the assessment. § 441.37(1)(a)(1)(a, b, d, e) (2020).

### **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## Findings of Fact

Derrick Nix testified for Riverside. Davenport City Assessor Nick Van Camp testified on behalf of the Board of Review.

The subject properties are summarized in the following table. (Exs. A). Van Camp described the subjects' immediate neighborhood as being established and improved with homes built in the 1950-60's era. The subject sites are generally smaller than the majority of the sites in the area. An aerial photograph shows the properties have frontage on W 53rd Street, a four-lane street, and 1223 W 53rd is a slightly larger corner lot. (Ex. E).

Docket	Address	Site Size (Acres)	Adjustment to Assessment	2020 Land Value
2020-103-10020R	1221 W 53rd St	0.159	-\$4,068	\$16,270
2020-103-10022R	1217 W 53rd St	0.159	-\$4,065	\$16,260
2020-103-10023R	1215 W 53rd St	0.176	\$0	\$22,560
2020-103-10024R	1223 W 53rd St	0.263	-\$11,469	\$22,260

Van Camp testified the properties are valued using a front-foot method, a depth factor is applied, and a unit price of \$525 per effective front foot was used. He stated the unit price is determined based on the fair market value, and the 2017 sale of the subject properties was considered in arriving at that unit price. He stated the unit price of the subject parcels is higher than neighboring lots because the subject parcels have less frontage. PAAB notes this is consistent with the law of decreasing returns. Appraisal Institute, *The Appraisal of Real Estate* 27 (15th ed. 2020).

1221, 1217, and 1223 W 53rd Street each have a 20% obsolescence applied to their assessments due to being unimproved land. 1223 W 53rd Street has an additional 14% obsolescence applied to its assessment for excess frontage.

1215 W 53rd Street does not have any obsolescence applied due to being an improved site.

Land that is undeveloped, or in agricultural use, is considered unimproved. Land that has been developed to the extent that it is ready to be built upon is considered a site. The off-site improvements which make undeveloped land a site include streets and utilities. Furthermore, sites can be broken down into unimproved sites and improved sites. When

a site is described as “improved” it means it is used in conjunction with an existing structure and has the necessary site improvements. These site improvements include grading and topsoil, landscaping, trees and shrubs, etc. An “unimproved” site will lack some or all of these improvements. For assessment purposes the land value conclusions should be for sites that are improved. An unimproved adjustment factor should be determined and applied to all unimproved site. (IOWA REAL PROPERTY APPRAISAL MANUAL, 2-4).

Van Camp testified the subject property located at 1217 W 53rd Street has an error in the assessment as it is currently receiving a 20% obsolescence (\$4065) as an unimproved lot. In fact, as of January 1, 2020, this lot had a foundation for a new home and was an improved lot at that time. This will be corrected for the next assessment cycle and the error is in the taxpayer’s favor.

Nix testified Riverside purchased the subject properties in 2017 for a total sale price of \$76,000. (Exs. L). The 2017 sale was of a single site, which Riverside subsequently subdivided into the four subject lots. The Board of Review notes that collectively the four subject sites have a total 2020 assessed value of \$77,350. (Ex. 3). Van Camp testified the 2017 sale of the subject was a normal transaction, but because it was the sale of unimproved land it would not be included in the Department of Revenue’s equalization analysis. Nix was critical of the Board of Review’s observation that the 2020 total assessed values are only slightly higher than his 2017 purchase price. In his opinion, what a property is purchased for does not indicate its fair market value. Moreover, as discussed in the next paragraph, he believes the subject parcels are not being treated the same as other properties which have been purchased and subdivided. The Board of Review submitted a mortgage using the subject properties to secure a line of credit for up to \$750,000. (Ex. M). Nix testified the mortgage amount reflects future improvements on each lot.

Riverside submitted a Declaration of Value for a property that sold and was subsequently subdivided. (Exs. 11, 12, & 13). Nix testified this property is located approximately two blocks from the subject property. It was purchased for \$390,000 and subdivided into roughly twenty lots. Nix testified that if you add up the assessed value of the twenty subdivided lots it does not total the purchase price. Nix testified this subdivision does have a street, sewer, and utility hookups to the individual sites.

However, we note the photograph in Exhibit 13 shows a vacant, snow-covered field and, given the property was purchased by the developer in September 2019 and not platted until June 2020, we question whether infrastructure was in place as of the assessment date of January 1, 2020. Additionally, we note the record lacks corroborating evidence of the subdivided lots' assessments and, based on our knowledge and other testimony given, we assume the parcels are being assessed pursuant to the plat law. For these reasons, we give this evidence no further consideration.

Van Camp testified the subject sites were not valued under the plat law because there was street access, and utility hookups, including sewer, were readily available.<sup>2</sup> Additionally, the sites are located in an established neighborhood. He believed the plat law was designed to be used for larger, undeveloped tracts where streets, sewers, and other utilities need to be added. He also testified that, even if the subject sites were valued under the plat law, their assessments would not likely differ because the value of the whole was established in the 2017 purchase.

For each subject lot, Riverside submitted five properties for comparison, which are individually summarized in the addendum to this Order. (Exs. C & H).

None of the properties Riverside submitted for comparison have recently sold.

Nix testified the Josvanger parcels W0923D09 and W0923D10 (Comparables 4 and 5) are also located on W 53rd Street less than one mile from the subject properties. (Docket 2020-103-10020R, Ex. H). He explained these properties are twice as large as the subject properties yet assessed for less than 1215 and 1223 W 53rd Street.

Van Camp testified Riverside's Comparables 4 and 5 are located on W 53rd Street, but at a dead-end so they have less traffic than the subject sites. He also explained these parcels, while classified residential, are located in an area with a

---

<sup>2</sup> Iowa Code section 441.72(1) states:

Except as provided in subsection 2, when a subdivision plat is recorded pursuant to chapter 354, the individual lots within the subdivision plat shall not be assessed in excess of the total assessment of the land as acreage or unimproved property for five years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in chapter 428 and this chapter.

mixture of residential and commercial use and could potentially be developed towards either use. He indicated those properties are surrounded by apartments. We note they are assessed at \$325 per effective front, lower than the subject parcels. Van Camp testified Comparable 4 receives a 40% obsolescence adjustment to its assessment, broken down as: 20% for being undeveloped; 10% for topography; and 10% for location. (Exs. H, pp. 9). We note Comparable 5 receives a total obsolescence adjustment of 45%. (Exs. H, p. 12).

The Board of Review submitted a location map of the five comparables Riverside offered for each of the four subject lots. (Exs. I). These maps show all of Riverside's selected comparables are located some distance from the subject property. Focusing on Exhibit I in Docket 2020-103-10020R, Van Camp explained that Riverside's Comparables 1 and 2 would be in a superior area compared to the subject properties, and Comparables 4 and 5 would be in an inferior area. He was unclear of exactly where Comparable 3 was situated within that area of the map and indicated it may also be inferior in location unless its situated in an area of newer homes, which would make it more desirable than the subject properties' location.

Van Camp testified that some of Riverside's selected comparables may be land locked or subject to a Five-Year Plat law. See Iowa Code § 441.72. The Five-Year Plat law reflects land valued without improvements like streets and utilities.

Van Camp further identified some of Riverside's other comparable properties are considered to be underimproved. The underimproved sites may not have all utilities available to the site. Van Camp testified that Riverside's properties are not land locked; are not subject to the Five-Year Plat law; and have utilities available to each site making them superior to the sites it selected for comparison. We agree, and find that any comparables which are unimproved sites are not comparable to the subject.

Lastly, Van Camp believes Riverside's comparables are not proximate to the subject site and may have locational factors that affect their market and assessed values. Riverside submitted emails between the Board of Review counsel and Nix. (Exs. 1-5). In these emails, the Board of Review identified some of the comparable properties Riverside listed on its petitions as being located in "less desirable locations or are

unbuildable lots.” (Ex. 3). Nix believes it is unacceptable and illegal to consider the desirability of a property’s location in arriving at its assessed value. We note in a subsequent email, Board of Review counsel clarified that by “less desirable location” he was referring to “locations with a generally lower market value.” (Ex. 5).

Under Iowa law, however, location is a factor of consideration in determining market value for assessment purposes. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (“Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘size, use, location, and character’...” ) (citations omitted). Accordingly, we believe properties that have a more similar location to the subject properties are more persuasive.

Nix requested the Board of Review to identify the lots that were considered to be unbuildable. (Ex. 4). The Board identified the following Riverside comparables as either landlocked or unbuildable, and thus not sufficiently similar to the subject property: Comparable 15 (Ta Duc - X0255-04), Comparable 7 (Midwest - S2919-01C), Comparable 1 (Trier - N0755-OLF), Comparable 17 (Till - N0755-OLG), Comparable 2 (Holmes - N0755-OLJ), and Comparable 16 (TW Dev. - N0753B18). (Ex. 5). Nix acknowledged the subject lots are buildable lots and that 1215 and 1217 W 53rd Street have new homes currently being constructed on them.

Riverside did not submit any evidence of the market value of the subject sites.

The Board of Review submitted the same five properties for comparison to each of the subject lots. (Exs. E & F). The following table summarizes the Board of Review’s comparable properties.

Deed Holder/Parcel #	Site Size (Acre)	Improvements	Assessed Land Value
Subject - 1221 W 53rd St	0.159	None	\$16,270
Subject - 1217 W 53rd St	0.159	None	\$16,260
Subject - 1215 W 53rd St	0.176	None	\$22,560
Subject - 1223 W 53rd St	0.263	None	\$22,260
A - Miller Trust (P1109-21)	0.523	None	\$33,900
B - Baker (P1109-11)	0.590	Yes	\$37,700
C - Voorhies (P1109-10)	0.861	Yes	\$39,980
D - Chavez (P1109-09)	0.459	Yes	\$35,430
E - White (P1109-080)	0.459	Yes	\$35,430

None of the comparable properties have recently sold.

Comparables B, C, D, & E are all improved with single-family residences and located on W 53rd Street, immediately east of the subject sites. (Ex. E).

Comparable A is located roughly one-block east of the subject property and is a vacant site like the subject properties.

## **Analysis & Conclusions of Law**

Riverside contends the subject properties are inequitably assessed, assessed for more than authorized by law, that there is an error in the assessments, and there is fraud or misconduct in the assessments as provided under Iowa Code section 441.37(1)(a)(1) (a, b, d, e). Riverside bears the burden of proving its claims. § 441.21(3).

### **Error Claim**

Riverside asserts there is an error in the assessments. § 441.37(1)(a)(1)(d). An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4).

Riverside did not provide any evidence of an error in the assessments. Based on its arguments, it would appear Riverside believes the assessment errors are that the subject properties are over assessed. Its error claim fails.

### **Fraud or Misconduct in the Assessment**

We next address Riverside's claim of fraud or misconduct. Under Section 441.37(1)(a)(1)(e), a taxpayer may assert there is fraud or misconduct in the assessment, which is specifically stated. "It is not necessary to show actual fraud. Constructive fraud is sufficient." *Chicago and North Western Railway Co. v. Prentis*, 161 N.W.2d 84, 97 (Iowa 1968) (citing *Pierce v. Green*, 294 N.W. 237, 255 (Iowa 1940)). Constructive fraud may include acts that have a tendency to deceive, mislead, or violate confidence, regardless of the actor's actual motive. *In Interest of C.K.*, 315 N.W.2d 37,



42 (Iowa 1982) (quoting *Curtis v. Armagast*, 138 N.W. 873, 878 6 (Iowa 1912)). See 37 C.J.S. Fraud § 5 (2020); BLACK’S LAW DICTIONARY Fraud (11th ed. 2019).

§441.37(1)(a)(5). Misconduct in an assessment “includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravenes any applicable law, administrative rule, or order of any court or other government authority.” §§ 441.9, 441.37(1)(a)(5).

In his testimony Nix testified to his belief the assessment is discriminatory and that there has been fraud and misconduct in the assessment. Other than his testimony, Nix submitted no corroborating evidence to support his claim of fraud or misconduct. Blanket allegations, without more, are insufficient to demonstrate fraud or misconduct. Riverside failed to establish fraud or misconduct in the assessment and its claim must fail.

#### Inequity Claim

Under section 441.37(1)(a)(1), a taxpayer may claim that their property is inequitably assessed when compared to other like properties in the taxing district.

As an initial matter, we find a significant number of the properties Riverside relies on are not similar to the subject. As noted in the addendum, they are assessed pursuant to the plat law under section 441.72, are unimproved sites, or unbuildable sites. We do not consider any of those properties comparable.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Here, Riverside Holdings focuses on Comparables 4 and 5 (the Josvanger properties) and we note they do not suffer from the issues we find disqualify the other properties Riverside offered. The Board of Review asserts they differ in location when compared to the subject sites. In response, Riverside insinuates the Assessor’s description of areas as less desirable is discriminatory.

Location is a factor that may be considered in determining a property’s fair market value for assessment and is a factor of comparability. *Soifer*, 759 N.W.2d at 782.

Based on the maps in the record, there is some distance between Comparables 4 and 5 (as well as the other Josvanger parcels) and the subject sites. In the absence of any market value evidence to the contrary, we are willing to give weight to Van Camp's testimony that there are differences in market value between the areas. Aside from that, we find the most similarly situated comparables are actually the subject sites relative to each other, and their assessments are arrived at using the same methodology. Therefore, we find Riverside failed to demonstrate the Assessor applied an assessing method in a non-uniform manner to similarly situated properties.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties and the subject, the subject property is assessed at a higher proportion of this actual value. *Id. Id.* This is typically demonstrated by comparing prior year (2019) sales with the current (2020) assessment of the subject and comparable properties.

Riverside submitted five vacant land properties for comparison to each of the four subject parcels. In addition to reiterating our concerns about their comparability, none of the properties have recently sold and therefore cannot be used for the *Maxwell* analysis. Accordingly, the *Maxwell* test cannot be completed. Based on the foregoing reasons, we find Riverside's inequity claim fails.

### Over Assessment

The burden of proof is upon the taxpayer, who "must establish a ground for protest by a preponderance of the evidence. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009). But when the taxpayer "offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment

purposes.” *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009) (citations omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property’s fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm’s-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* “In arriving at market value, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including but not limited to sales to immediate family of the seller, foreclosure or other forced sales, contract sales, discounted purchase transactions or purchase of adjoining land or other land to be operated as a unit.” *Id.*

Riverside failed to offer evidence of the January 1, 2020 market value of its four subject properties, which is typically done by an appraisal, a Comparable Market Analysis (CMA), or comparable sales adjusted for differences from the subject. Comparing the assessments of other properties with the subject properties is not a recognized method to demonstrate overassessment. Moreover, the evidence shows the parcels’ collective assessments are approximately the same as the 2017 purchase price. We find Riverside has failed to support its claim of overassessment.

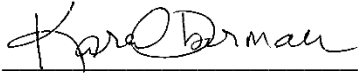
## **Order**

PAAB HEREBY AFFIRMS the City of Davenport’s Board of Review’s action on the four subject parcels.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

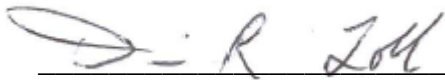
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

Copies to:

Riverside Holdings  
PO Box #6  
LeClaire, IA 52753

City of Davenport Board of Review by eFile

### Addendum

<b>Docket 2020-103-10020R</b>						
Deed Holder/Parcel #	Site Size (Acre)	Assessed Land Value	Street	Utilities	Plat law	Landlocked/ Unbuildable
Subject – 1221 W 53rd St	0.159	\$16,270	Improved	All Public	No	No
1 - Trier (N0755-OLF)	0.677	\$2,150	None	None	No	Yes
2 - Holmes (N0755-OLJ)	0.379	\$1,650	None	None	No	Yes
3 - Grunwald (S2919A41)	0.246	\$2,140	None	None	Yes	No
4 - Josvanger (W0923D09)	0.321	\$17,200	Improved	All Public	No	No
5 - Josvanger (W0923D10)	0.319	\$18,630	Improved	All Public	No	No

<b>Docket 2020-103-10022R</b>						
Deed Holder/Parcel #	Site Size (Acre)	Assessed Land Value	Street	Utilities	Plat law	Landlocked/ Unbuildable
Subject – 1217 W 53rd St	0.159	\$16,260	Improved	All Public	No	No
6 - Ion-Rood (I0008-05B)	0.550	\$8,600	Semi-improved	All Public	No	No
7 - Midwest (S2919-01C)	0.231	\$7,410	None	All Public	No	Yes
8 - Grunwald (S2919A03)	0.180	\$1,570	None	None	Yes	No
9 - WJH (S3005-49L)	0.231	\$3,470	None	All Public	No	No
10 - O'Bros (Y0651B10)	0.510	\$15,300	None	None	Yes	No

<b>Docket 2020-103-10023R</b>						
Deed Holder/Parcel #	Site Size (Acre)	Assessed Land Value	Street	Utilities	Plat law	Landlocked/ Unbuildable
Subject – 1215 W 53rd St	0.176	\$22,560	Improved	All Public	No	No
11 - McFarlin (N0713096C)	0.925	\$22,320	Improved	All Public	No	No
12 - Josvanger (W0923C07)	0.397	\$17,050	Improved	All Public	No	No
13 - Josvanger (W0923C18)	0.305	\$14,160	Improved	All Public	No	No
14 - Josvanger (W0923C21)	0.358	\$16,330	Improved	All Public	No	No
15 - Ta Duc (X0255-04)	0.331	\$3,560	None	All Public	No	Yes

<b>Docket 2020-103-10024R</b>						
Deed Holder/Parcel #	Site Size (Acre)	Assessed Land Value	Street	Utilities	Plat law	Landlocked/ Unbuildable
Subject - 1223 W 53rd St	0.263	\$22,260	Improved	All Public	No	No
16 - TW Dev. (N0753B18)	0.119	\$3,840	None	None	No	Yes
17 - Till (N0755-OLG)	0.574	\$2,150	None	None	No	Yes
18 - Josvanger (W0923C17)	0.305	\$14,160	Improved	All Public	No	No
19 - Josvanger (W0923C21)	0.358	\$16,330	Improved	All Public	No	No
20 - O'Bros (Y0651B16)	0.266	\$7,980	None	None	Yes	No